

# **International Best Practice: Consumer Protection Regulation in the ICT Sector**

**Introductory Workshop, Lusaka, 13 August 2009**



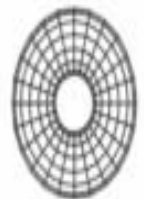
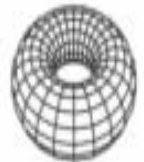
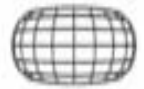
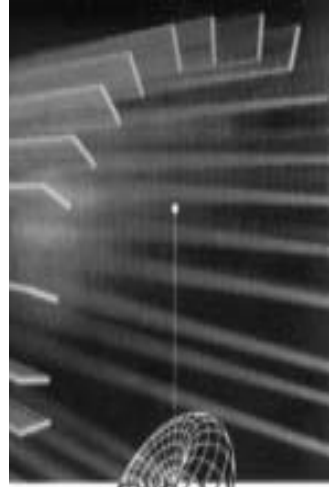
**Charley Lewis**  
**LINK Centre**  
University of the Witwatersrand  
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<http://link.wits.ac.za>  
May 2009



# Consumer Protection



## Global Best Practices in the Telecomms Sector



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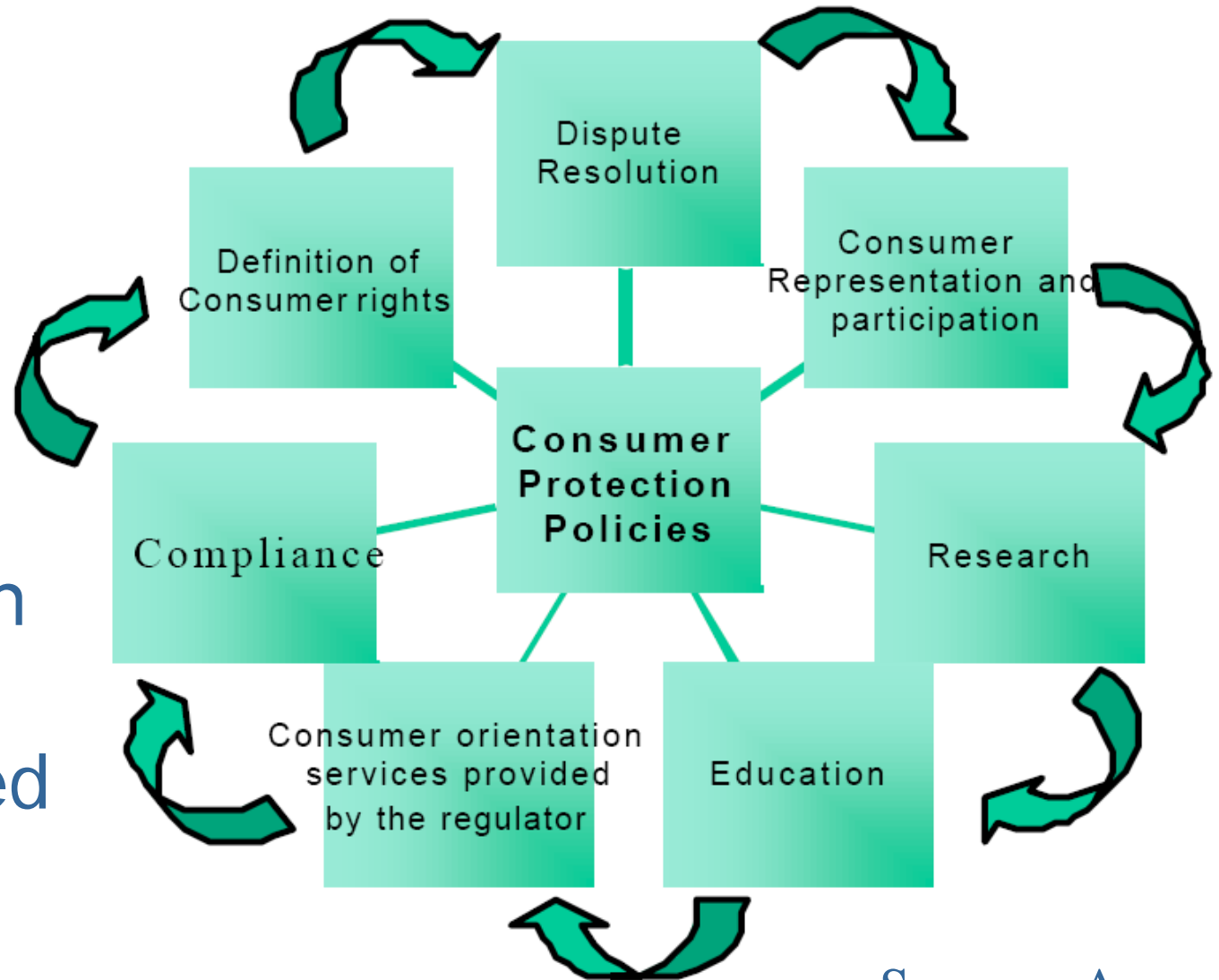
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# Consumer Protection...

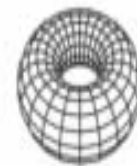
...requires  
an approach  
that is  
multi-faceted  
&  
integrated



Source: Apoyo

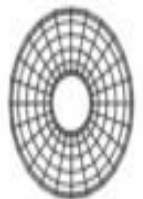
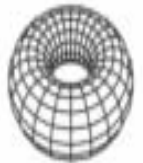
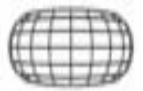
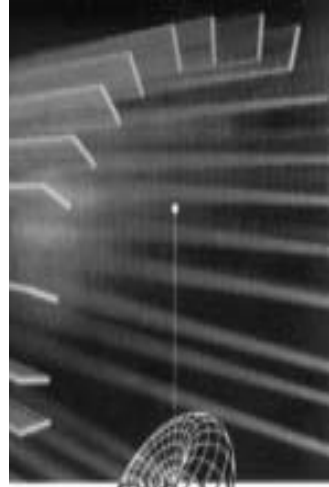
# Consumer Protection

- Who are consumers?
  - Residential subscribers? Businesses?
  - Occasional users? Potential users?
- Consumer protection tools
  - Rules on pricing, QoS, safety standards, contract terms and conditions, pre- & post-purchase
  - Mechanisms for enforcement
  - Mechanisms for redress
- General vs telecomms law vs codes of practice?
- Consumer protection vs Consumer empowerment?
- Complaints & dispute resolution mechanisms



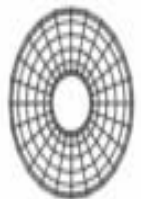
# Foundations of consumer rights

- Constitution
- Consumer rights law
- Competition law
- Telecomms, Internet and ICT laws
- Regulatory interventions (regulatory directives, codes of conduct, etc)
- Industry self-regulation



# OECD Consumer Protection Objectives

- Provide consumers with a range of quality products at competitive prices
- Inform consumers about potential security & privacy risks and available measures to limit risks
- Enhance consumer awareness
- Contracts - improve transparency & ensure fairness
- Minimise switching costs
- Facilitate timely, inexpensive, easy to use, effective and fair settlement of consumer complaints
- Ensure accessibility of services, especially to disadvantaged and vulnerable consumers

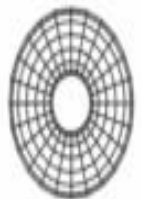


Source: OECD, 2008



# UN Guidelines for Consumer Protection

- UN general principles for consumer protection & legitimate consumer needs to includes:
  - Protection of consumers **from hazards** to their health and safety
  - Promotion and protection of the **economic interests** of consumers
  - Access of consumers to adequate information to enable them to make **informed choices** according to individual wishes and needs
  - Consumer **education**, including education on the environmental, social and economic impacts of consumer choice
  - Availability of effective consumer **redress**
  - Freedom to form consumer and other relevant **groups** or organisations & opportunity to present their views in decision-making processes affecting them
  - Promotion of **sustainable consumption patterns**
    - *Guidelines for Consumer Protection, United Nations, New York, 2001, UNCTAD/DITC/CLP/*



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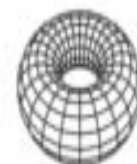
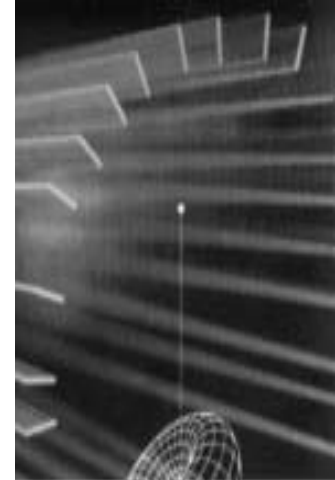
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# OECD Consumer Protection Guidelines

- New and bundled services
  - Clear, accurate, accessible information about contract terms & costs
- Inform consumers about QoS & QoS variability
- Emergency numbers & hotlines
  - Ensure access
  - Inform of limitations
- Minimise switching costs
- Ensure number portability
- Increase interoperability of equipment
- Bundled services
  - Ensure unbundling remains possible
  - Retain access to emergency services
- Contracts
  - Clear terms & costs
  - No deceptive or fraudulent practices
  - Notice of modifications
- Complaints
  - Access to fair, easy-to-use, effective, inexpensive dispute resolution mechanisms
  - Independent dispute resolution bodies
  - Consumer representative bodies
  - Role of regulator
- Information about privacy & security issues

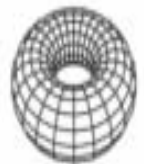
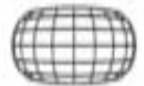
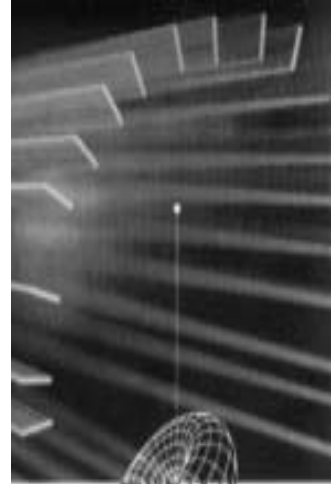




# Regulating to



# Protect Consumers



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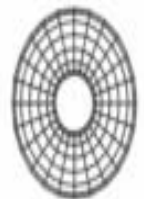
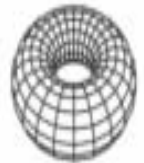
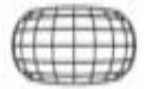
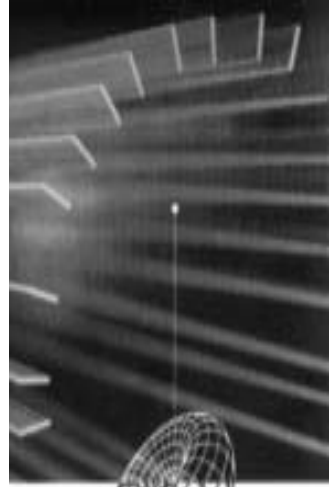
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# Approaches to QoS regulation & consumer protection

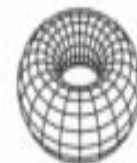
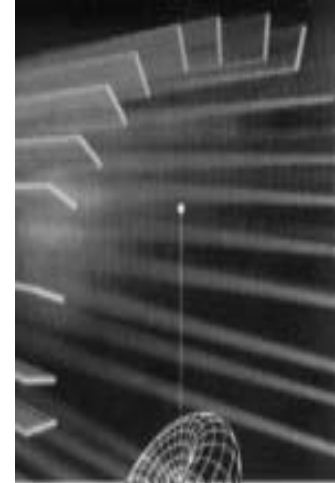
- **Encouragement** - relies on publicity and effective in competitive environment
- **Enforcement** - penalties if targets not met
  - Fines vs customer compensation
  - Integrating QoS variable into price cap formula
- Other factors to consider:
  - Changing needs of consumers over time
  - Current consumer needs (quality) vs future consumers coming onto the network (affordability)
  - What you measure is what you get...



# Consumer protection

## Four roles for the regulator

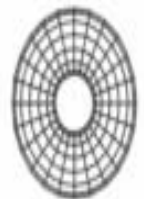
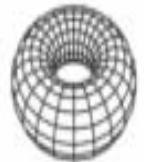
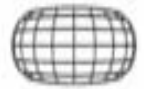
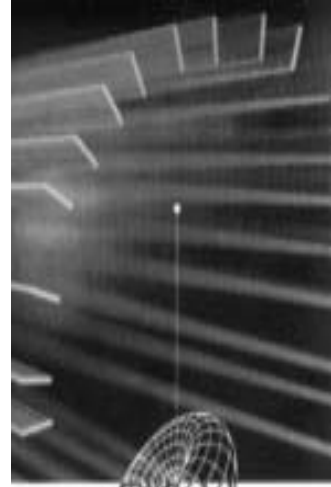
- **Voice**
  - Allowing consumers to be heard, providing channels for complaint & mechanisms for redress
- **Choice**
  - Empowering consumers to exercise choice across range of services, selected according to user requirements, quality and price
- **Information**
  - Widely disseminated, allowing consumers to make well-informed choices
- **Representation**
  - Consultation with consumers via consumer councils or committees to counter-balance dominance of large industry interests



# International Best Practice

## Major themes that emerge

1. Knowing what consumers care about – surveys & complaints monitoring
2. Setting a rules framework – Codes of Conduct and standard setting and enforcement
3. Intervening on behalf of consumers in issues as they arise
4. Communicating with consumers, and the power of the media
5. Complaints processes – the regulator as referee of last resort
6. Scanning the horizon – spotting issues before they occur
7. Assessing the cost & effectiveness of different interventions
8. Promoting consumer access



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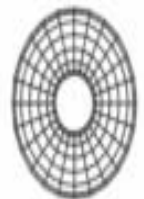
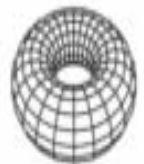
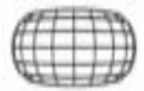
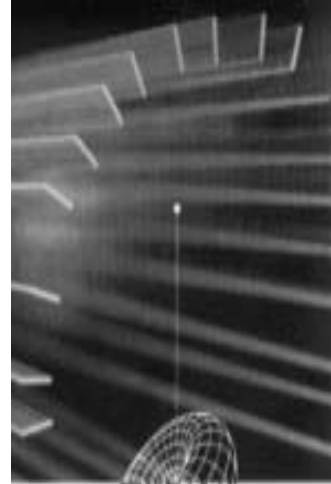
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# 1 Knowing what consumers care about – surveys and complaints monitoring

- Consumer representation on regulator (eg CAZ)
- Road shows (eg ICASA, KCC)
- Survey research (eg BTA)
  - Consumer perceptions of operators (eg DTI)
  - Consumer perception of regulator (eg Apoyo)



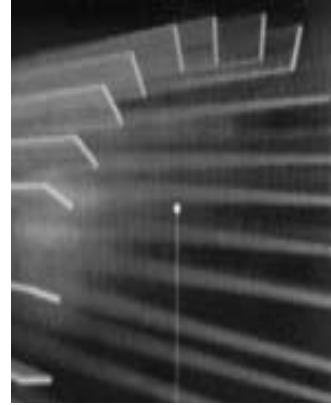
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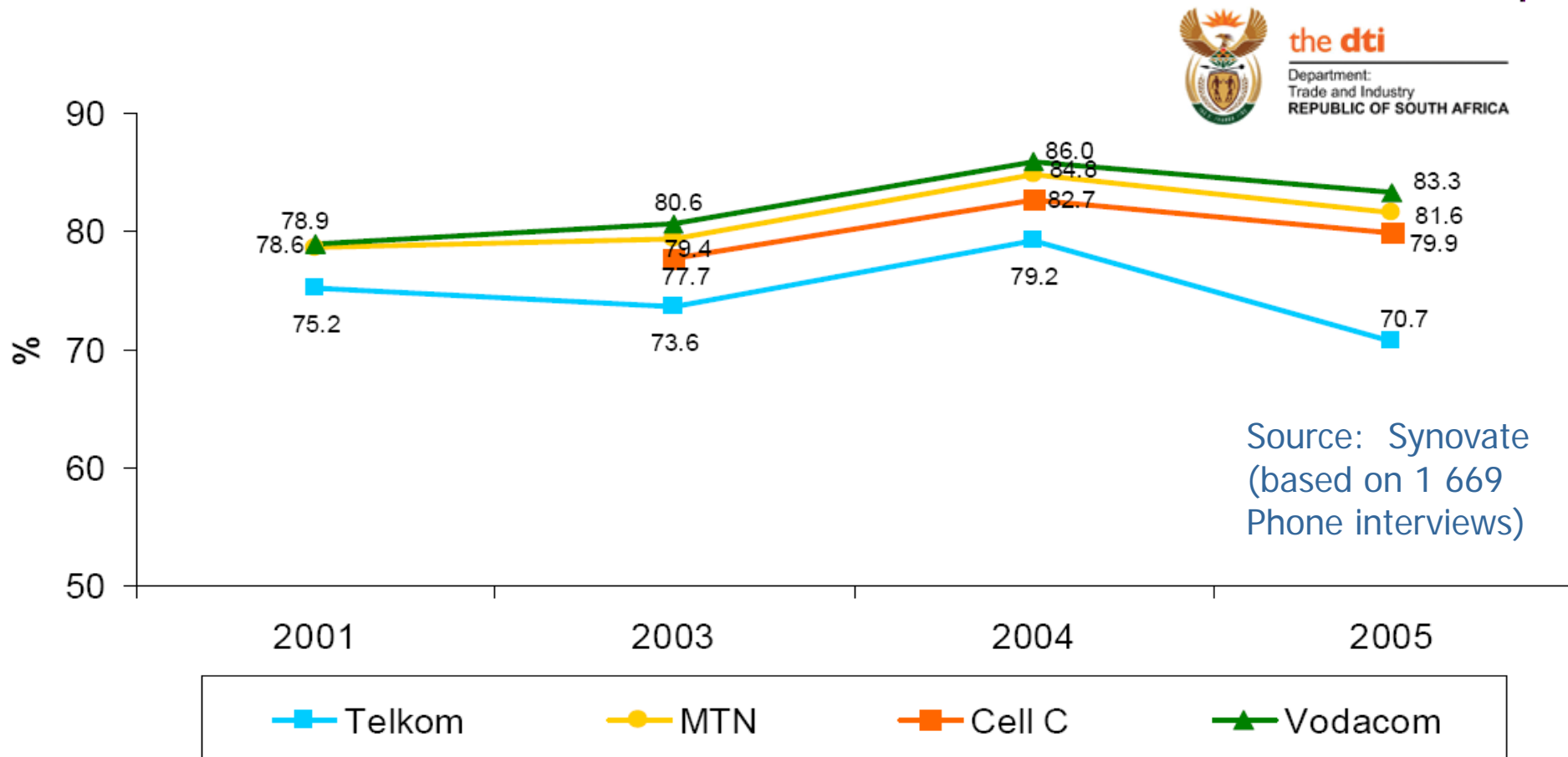


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# DTI's Consumer Satisfaction Survey (2005)



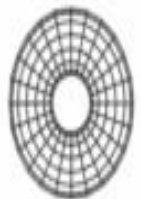
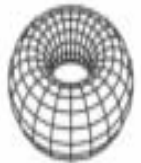
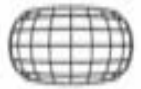
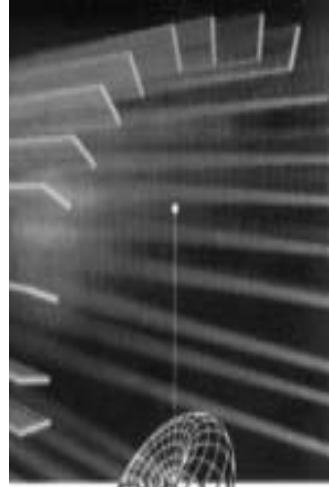
## Historical Trend: Overall SAS Index - Telecommunications





## 2 Setting a rules framework – Codes of Conduct & standard-setting and enforcement

- Consumer Codes of Practice / Subscriber Service Charters (eg NCC, ICASA)
- Codes must be well publicised & easy for consumers to access
- Self-regulatory codes of conduct (eg WASPA, BCC)
- Cases & outcomes must be publicised



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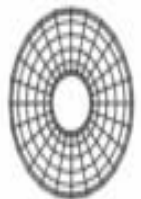
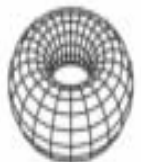
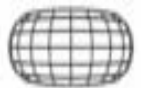
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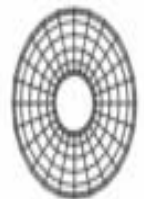
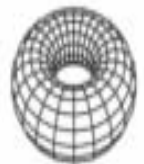
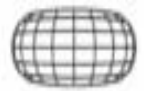
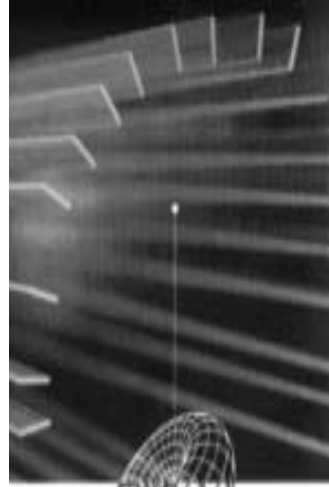
# Codes of Conduct

- WASPA (Wireless Application Service Providers' Association)
  - 15 page Code of Conduct (June 2005)
  - mandatory for all members
  - on WASPA and member web sites
  - both a detailed code of conduct (eg competitions, adult content) and complaint structure & procedures
  - mobile operators require WASPA membership via IRB Code of Conduct (signed Nov 2005)
- ISPA (103 member ISPs)
  - 14 clause self-regulatory code of conduct
  - mandatory for all members
  - in line with ECT Act requirements



# 3 Intervening on behalf of consumers in issues as they arise

- Quality of service enforcement through sanctions & incentives
  - Mauritania - dropped calls
- Regulatory investigations leading to regulation & directives
  - ICASA - handset subsidies, ADSL
  - OFTA - misleading advertising
  - EU - mobile roaming price regulations



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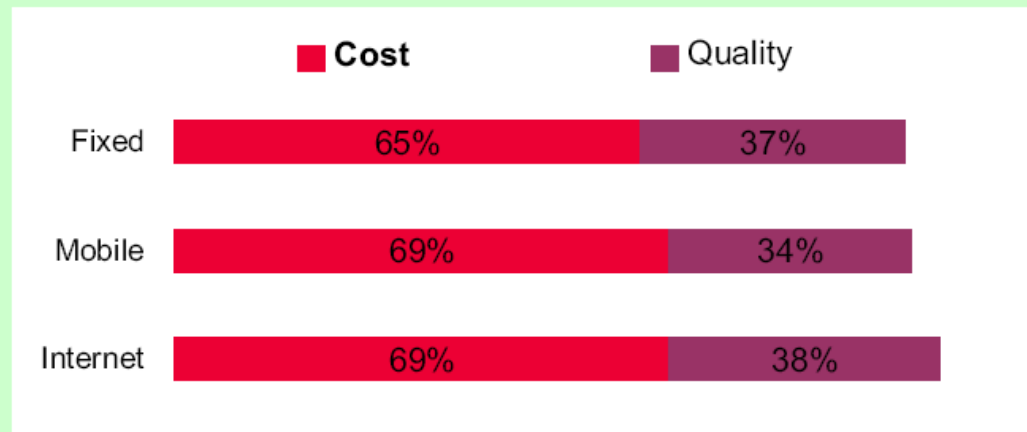
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# Cost vs quality

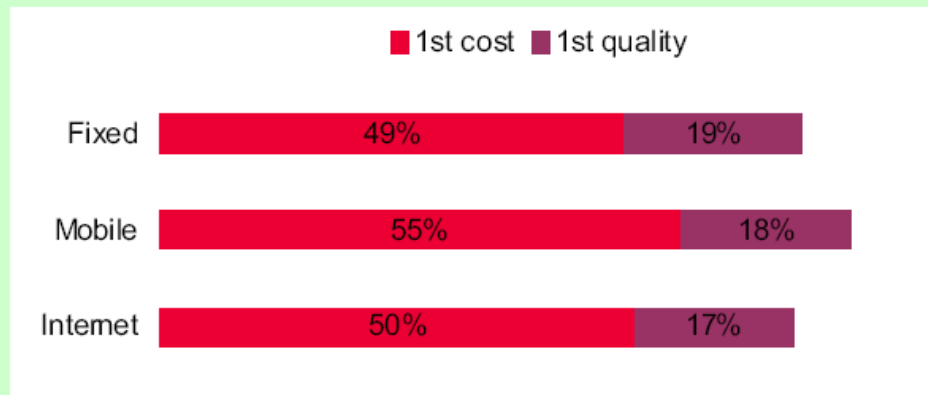
## Importance for consumers...

Figure 9: Importance placed on cost and quality when choosing a new supplier

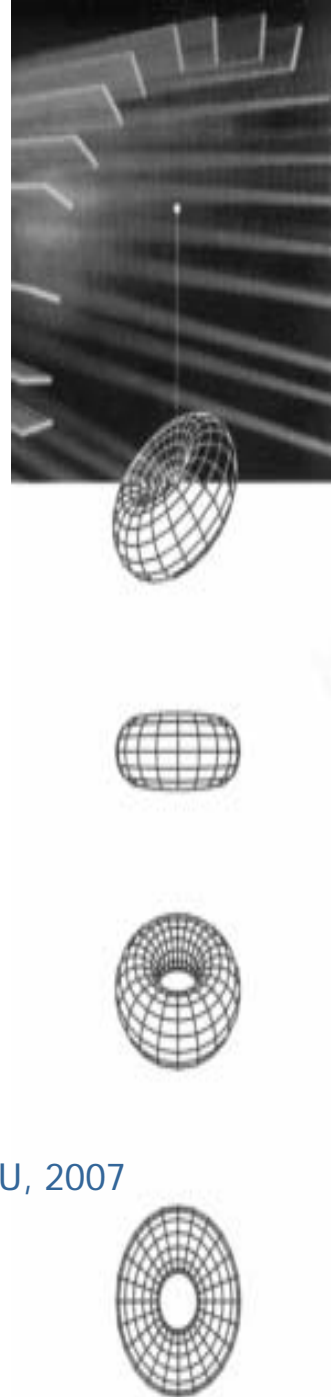
### Total mentions of cost and quality



### Most important aspect

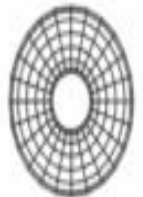
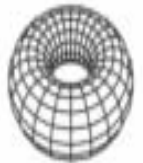
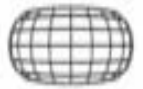
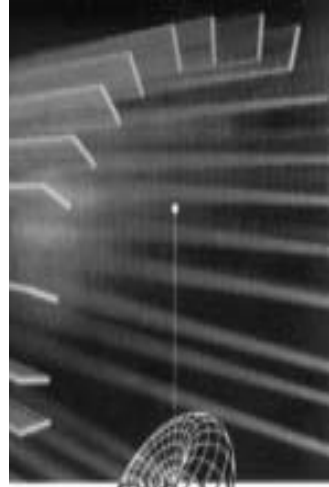


Source: ITU, 2007



# 4 Communicating with consumers & the power of the media

- Publicising operator statistics
  - eg TRAI QoS indicators
- Requiring operators to communicate with customers
  - eg Ofgem - prepaid energy meters
- Publication of consumer satisfaction data
  - eg TRAI, DTI
- Comparative operator data
  - Eg Ofcomm price & QoS web sites
- Role of radio & television journalism



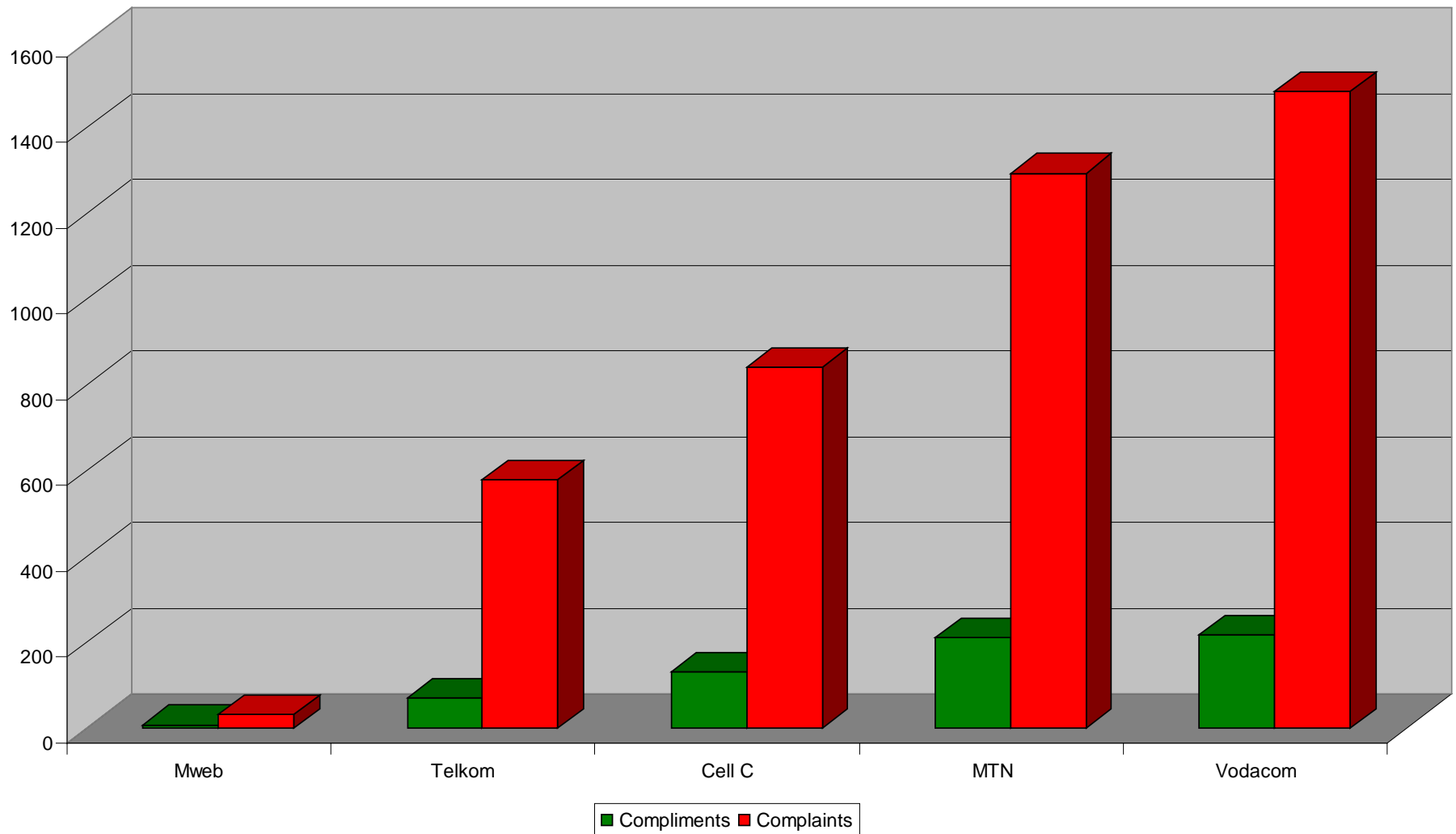
# Hellopeter Statistics

(12 months to 25 July 2006)

Greetings From..?

HELLOPETER.COM

your customer crusaders





# 5 Complaints processes – the regulator as referee of last resort

- Establishing clear complaints procedures & channels for escalation
  - eg Egyptian Electric Utility and Consumer Protection Regulatory Agency
- Publication of operator complaints data & outcomes
  - eg OFTA & WASPA web sites

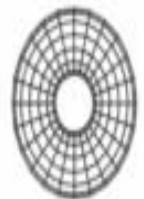
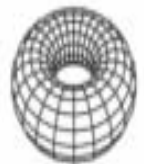
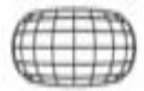
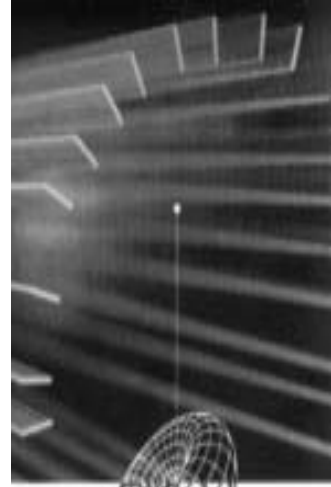
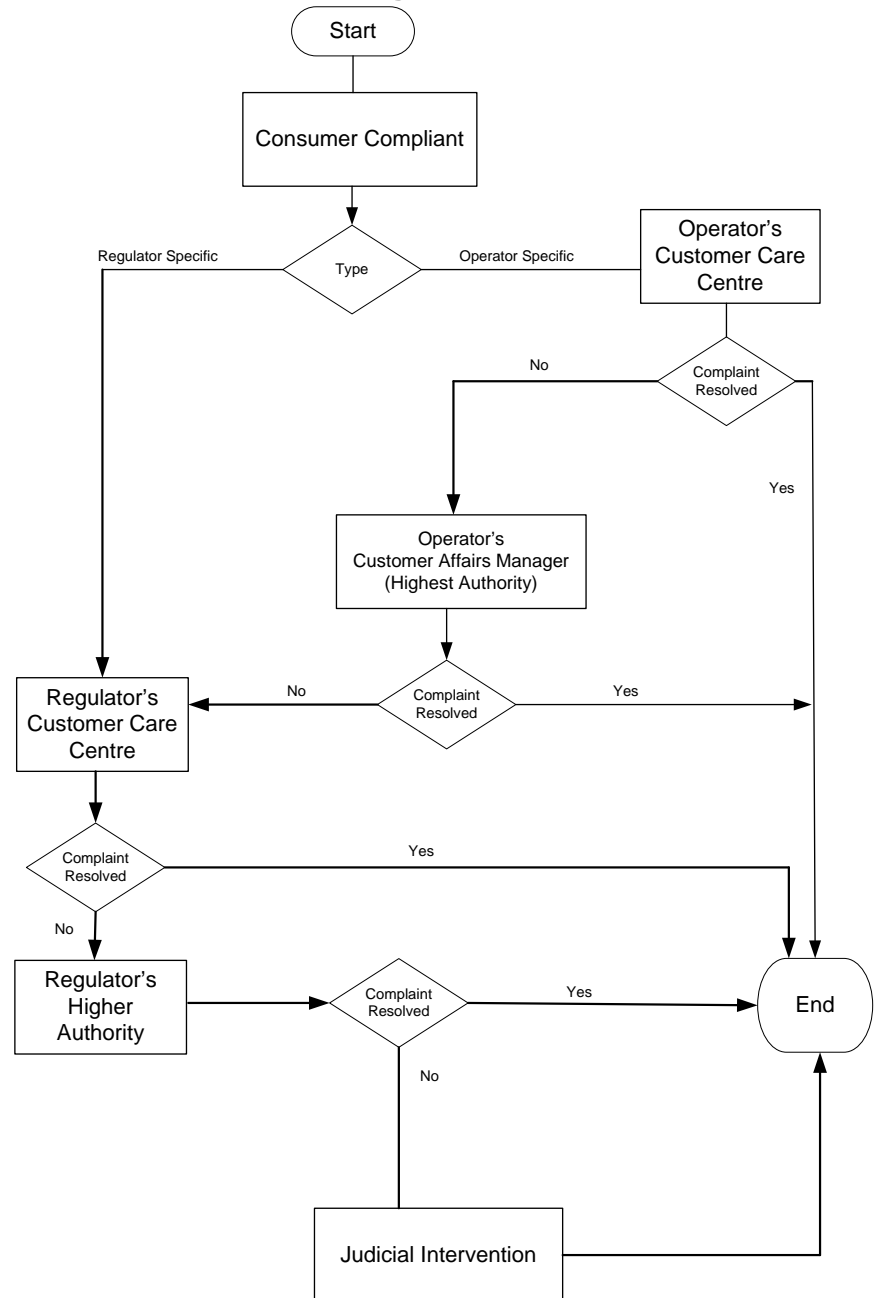


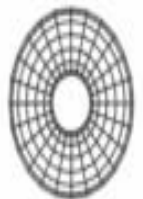
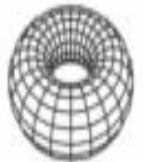
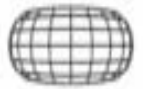
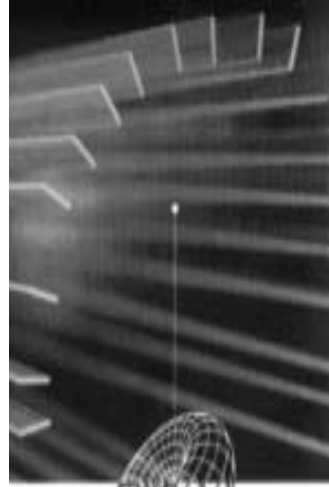
Fig. 2

# Consumer Complaints Procedures in Nigeria



# 6 Scanning the horizon – spotting issues before they occur

- Proactive investigations
  - eg Ofcom on silent and abandoned calls
  - Eg Safaricom & M-Pesa
  - Eg Mxit



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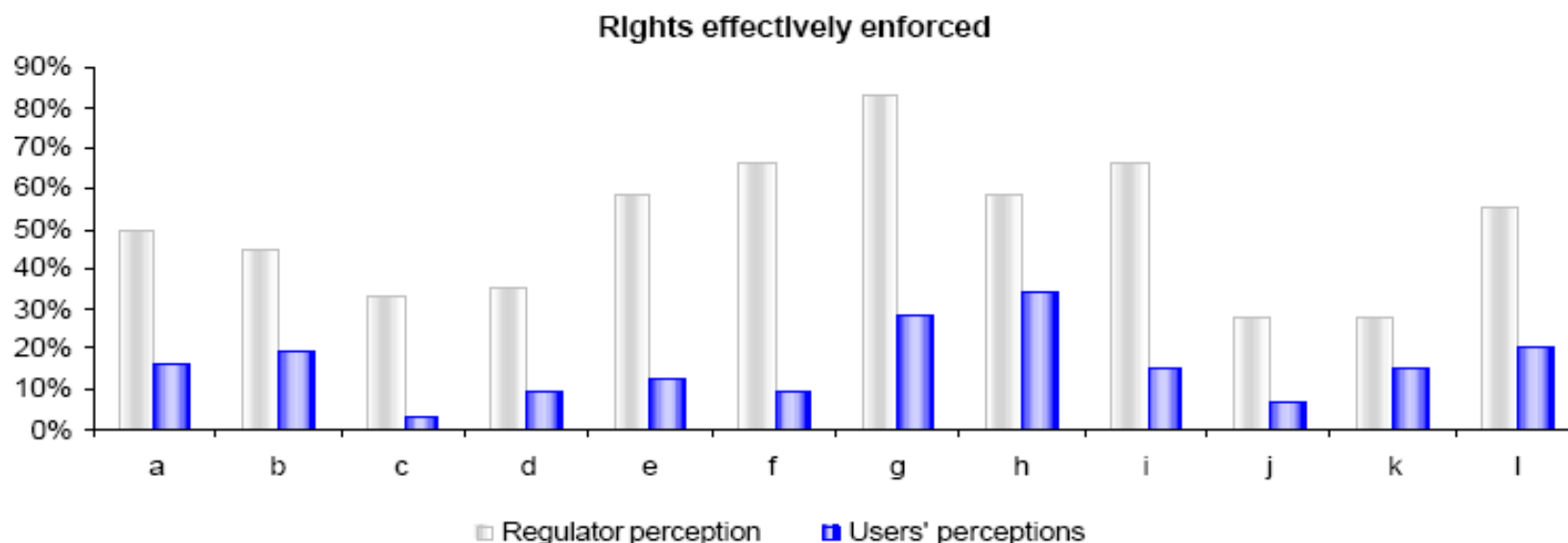


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# 7 Assessing the cost & effectiveness of different interventions

## FEEDBACK TO REGULATORS FROM CONSUMERS

Figure 4:



a. - Quality of residential service

b. - Dissemination of relevant information for better consumer choices

c. - Consumers are educated on rights and duties

d. - Client orientation service by the Operator

e. - Client orientation service by the Regulator

f. - Complaint resolution by the operator

g. - Complaint and appeal resolution by the Regulator

h. - Oversight of consumer rights by the Regulator

i. - Fines imposed on companies

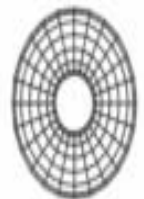
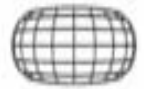
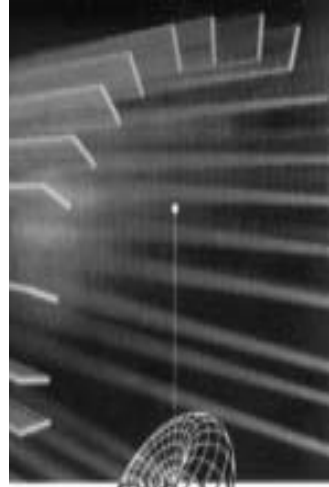
j. - Consumer participation

k. - Consumer representation

l. - Research conducted by the Regulator

# Concluding Thoughts

- Wide range of consumer protection regulatory best practices
- Each has strengths and weaknesses
- No one-size-fits-all magic silver bullet - consider in your country:
  - National economic, social & cultural environment
  - Level of sector development
  - Mandate (& limitations) of enabling legislation
  - Capacity of national regulator
- Deploy an appropriate combination of interventions



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# Thank you...

## ...questions????



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